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Federalism in Middle Europe: a model for a future European education system?

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Abstract

The article discusses the principle of federalism as a potential constitutional principle of the future education system in Europe. It reminds of the strengths and weaknesses of federalism in the history of Central Europe and clarifies the differences between Germany, Austria and Switzerland with respect to the practice of federalism in the education sector. The implications for the variability of structures, the competition of solutions, the allocation of financial resources and for participation are worked out under the auspices of their relevance for a future European education system.

1 Introduction

The political discussion about the desirability of having a constitution or a constitutional treaty for the European Union is gaining momentum. Although the outcome of the debate cannot be foreseen it is obvious with respect to the education sector that an understanding about basic features of the education sector in Europe or even the constituents of a European education system will be necessary. Co-operation within the Union needs a certain degree of commonality in basic principles and procedural regulations. Constituents do not determine the structure of the system but constitute rights and competencies of the actors in the field which at least are the Union, the states, and the citizens. By this constituents refer to procedures for determining what shall be in common and what is a matter for decisions in the member states and how the decision making structure can be developed (Waterkamp 1999).

A dialogue about commonalities can be carried forth on the base of the experiences and visions of all member states, i.e. 15 or 20 partners, yet it can also be fostered by focussing on common experiences and visions within larger regions in Europe. Historically certain regions in Europe have established common features of their education systems which might be scrutinised with respect to their fruitfulness for being transformed into commonalities on the larger scale of Europe. First of all the region of the Nordic states stands out in terms of relatively great homogeneity in the education

systems. Their similarity is strengthened by the politics of the Northern Council (*Nordiska Rådet*) which preceded the membership of Northern countries in the European Communities. As another region the Romance speaking countries might be discerned which in terms of the education systems were rather strongly influenced by basic traits of the French education system. This article points at the Middle European region in order to examine a basic constitutional principle which is particular to this region and might be considered for playing a new role in education in Europe. This is federalism. In case a dialogue on the base of greater regions is regarded to be promising dialogues have to be carried on in the regions themselves and on the European level as well.

Dialogues so far take place on the level of the Council of Ministers in Europe, conducted by the national ministers for education. As the Council of Ministers still acts as the “legislative power” in the distribution of powers in the Union the predominance of this level of dialogue seems to be legal and legitimate. Nevertheless, the lack of legitimacy is evident when a committee of representatives of the executive powers on the national level claim legislative power for the supra-national level. Although the role of the European Parliament has been strengthened after the Maastricht and Amsterdam treaties it is still far from being a legislative power as it should be in democratic communities. The dialogues among the national ministers for education overlap with their dialogues within the Organisation for Economic Co-operation and Development which includes the bigger industrialised countries. This constellation seems to frustrate any dialogues on societal and scholarly levels about commonalities of a future education system in Europe because there is no legitimised and effective addressee for the results – if not the public. Yet the European project was dependent on visionary thinking from its beginning.

Comparatists in education often have stated that borrowing from other countries or nations is not really a political option. Nevertheless, the project of setting up a political community called European Union is unique in history. Often political unification emerged as result of wars. A European Union can only come about by voluntary acts of the member states of transferring rights to the Union. This will only be done if the whole construction incorporates well-proven traditions of the member states or accordingly of larger regions in Europe. It is not borrowing that has to take place but it is transferring and transforming good traditions into a new construction.

2 Middle Europe

A definite geographical or historical definition of Middle Europe cannot be given. Most authors who use the term claim it for Switzerland, Austria, Germany, Poland, the Czech Republic and Hungary. Slovakia and Slovenia are sometimes also considered in this respect, because for a certain period in history they were connected with Austria. Clear geographical borders cannot be drawn because the current borders are rather different from historical borders, which were again changed during the 19th and 20th century. Above all, the population itself, if not killed during the wars and persecutions, was heavily relocated geographically (Riemeck 1983).

The historical point of view is important when the term “Middle Europe” is used, because this comprises a region that was under direct or indirect rule of the German

Empire or the Austrian Empire. History made German language together with other common features a factor for identifying this region, which also is valid for the greater part of Switzerland, but language is not the most important factor as, for instance, the Austrian Empire from a certain point of time in history conducted a rather tolerant language policy. More important is the influence of basic administrative practices and some specialities of the education system. When I use the term of Middle Europe here I refer to the period from 1867 when the crowns of the Austrian Empire and of the Hungarian Kingdom were coupled, to World War I and from there through several deep changes to the present day. In fact only a very weak overt historical continuity in this large area can be observed. This at once is clear when we think of the tragic fate of the Jews in this area who originally made such an immense contribution to the intellectual and cultural life in Middle Europe.

Nevertheless, this article wants to point at one characteristic of educational systems in this area which may be traced back into the imperial history in this area and with respect to Switzerland even longer. This is federalism as a specific feature of state administration in the field of education. If there is a specific contribution of Middle Europe to the European dialogue on the principles underlying an education system in Europe it could be centred on this theme.

3 Federalism

Federalism here is meant in the sense of a federation of states or – in French – *confédération*.

The criterion for the existence of federalism is the fact that member states of a federation have the judicial quality of states themselves. They own a limited number of rights of sovereignty by themselves which have not been transferred to them by the federal state. Together they establish a second chamber of representatives which is a counterweight to the national parliament. This makes a difference between regionalism and federalism. A country organised in the sense of federalism is the U.S. which formed a certain model for Switzerland when it established its federal constitution in the midst of the 19th century. Federalism is a result of history; it is not just a judicial construction. It came about as a compromise between the forces who aimed at centralising power and the forces of the regional powers who wanted to preserve a high amount of independence. The constitutions of the single states might even preserve pre-democratic elements, for example, concerning the mechanism of electing their parliaments whereas the federal constitution follows democratic rules (Nipperdey 1992: 166).

Federalism aims at distributing power among different political parties and individuals. No individual party and no person shall gather too much power and many political factions should have a chance to hold at least a small piece of it. Federalism, on this, exerts a pressure on all political actors on all levels of power to find consensual solutions.

Another effect of federalism might be that in different parts of the country different solutions for organising public affairs can be found and by this a competition of models might be stimulated. Both these effects – of necessary consensus and competition – seem to be politically valuable. But federalism need not be a beneficial institution per se. The

compulsion to find consensual solutions involves time-consuming negotiations. The pressure for consensus may even impede any definite decision or may lead to compromises which do not solve the problems. Responsibility and accountability might be disadvantageously shifted from the door of the central power to that of state powers and vice versa. Responsibilities might not be transparent and this might lead to a series of cases at the constitutional court of justice. Federalism can also result in doubling of decision-making organs and decision-taking procedures and by this augment bureaucracy. Series of elections in the states can paralyse politics when the campaigns in the state elections are centred around topics of federal importance. These tendencies demand a critical view of the principle of federalism.

Federalism is not primarily an outcome of the existence of different nationalities or ethnic groups in the country. Variety of nationalities and languages is often an additional problem. The populations in the different parts of the country are often mixed in terms of nationalities and ethnic groups. The relations among the groups may differ from state to state and by this conflicts within the states may be different in strength and type. The same is true for religion. Nationality, language and religion play a role in the development of federalism but federalism is primarily bound to territories and also relatively homogeneous countries in terms of nationality, just as we see today in Germany and Austria, who emphasise their character as federal states.

4 Federalism in Middle Europe

The type of federalism in Middle Europe differs between Switzerland, Austria and Germany. In Austria the tendency towards centralisation is stronger than in Germany. In Austria the nine states (*Bundesländer*) have no right for taxation of their own, but are dependent on the money transfers from the central state. In Germany the 16 states (*Bundesländer*) are able to levy and benefit from several kind of taxes, but they cannot pass tax laws of their own. This is different in Switzerland where the 26 states (*Kantone*) are free to raise their own taxes independently of the federal tax laws. This is important as it may lead to differences in financial power and wealth of the individual states. In Switzerland the states in fact differ remarkably in terms of their financial capacities, although the federal government smoothes these differences to a degree. This is evidence of a model of competition in Switzerland among the states (*Kantone*). In Austria there is no economic or financial competition between the states (*Bundesländer*), as they receive their finances from the federal government. In Germany there is a certain level of competition which is weakened by the constitutional rule that rich states shall transfer money to poor states (Hirter 1997; Brauneder 1998; Ermacora 1970).

This means that the function of competition is fully developed in Switzerland, partly in Germany and not in Austria.

Federalism principally allows the competition of models and there is a difference here between this and a purely economic competition. Competition among universities, for example, in some countries is conducted on the base of a unified or nearly unified model. The idea is that institutions only can be compared when they do the same things or work in a comparable way. When they are divergent in terms of goals and organisation they can hardly be compared on one scale.

The different status of the member states in Austria and Germany emerges also from a different structure of the state administration. In Austria the central state maintains authorities on the central and, additionally, on the intermediate level, that means that the central state also administers its affairs to an extent on individual state level. In Germany the central state has nearly no intermediate administrative organs on the level of the individual states, who administer their domestic affairs in their territories themselves (Pernthaler 1995).

The difference in autonomy of the states contributes to the difference in the role of the second chamber – the organ of representation of the states on the central level. In Austria the second chamber is similarly composed to that of the national Parliament and mirrors the distribution of power among the political parties which also is given in the Parliament. In Germany the co-ordination of the politics along the lines of the political parties sometimes plays a role in the second chamber, but in most cases the interests of the individual states (*Bundesländer*) prevail. The second chamber is actively involved in the legislative process in many cases whereas in Austria its legislative capacity is constrained to the right of veto. In Switzerland every law must be discussed and passed by both chambers (*Nationalrat* and *Ständerat*) (Hangartner 1982).

It might be questioned whether a divergence of financial power between the individual states is advisable. In Germany the constitution compels both parties – the federal and the state powers – to warrant a certain equity of living conditions in the states. In Austria this is arranged directly by the federal government. In Switzerland it is due to the states to conclude contracts among themselves to deal with compensation when citizens of one state use facilities of another state. This is done, for instance, for university studies. There are very exact calculations at the amount of money a state has to transfer to another state for its citizens who frequent a university in this other state. This is not the case in Germany although the universities are also maintained by the states. In Austria compensation is not needed because the universities are maintained by the central government. These differences also point to the fact that federalism in Switzerland also works as a means of competition in economic terms whereas this function is weaker in Germany. It must be mentioned, however, that the so-called city states in Germany such as Berlin, Hamburg and Bremen, which host many students from the neighbouring states, have made arrangements with these for compensation for these students and also for students at secondary schools.

Historically the value of federalism in Austria and Germany was quite opposite to the current situation. After Prussia had defeated Austria in 1866 and the so-called balance between Austria and Hungary was concluded in 1867, the Empire of Austria tried to solve its internal problems by fostering federalism. The period from 1867 to World War I was the great time of federalism in Austria. It was Austria, for example, who allowed the Polish language to be the language of instruction in the Austrian part of Poland which then was Galicia. In contrast, Prussia and Russia forbade the use of the Polish language in the schools of the large parts of Poland which were under their rule. During this period parts of the Austrian Empire such as the Kingdom of Bohemia pleaded strongly for federalism. The situation was different in the Hungarian Kingdom which was independent from Austria in domestic affairs. The Magyar majority organised a rather centralist state although other nationalities such as Croats and Slovaks wished

more federalism. Nationalism also invaded the Austrian Empire before World War I and brought about the animosities between Czechs and Germans and finally the demand of many Czechs for a state of their own. When this was founded in 1919 as the Republic of Czechoslovakia it was organised as a federalist state with the states of Bohemia, Moravia, Silesia, Slovakia and Carpatho-Ukraine. In contrast to this development, Hungary which was heavily reduced in size after World War I, remained a centralised state (Lipscher 1979).

The development in Germany was different from that of Austria in that respect that Prussia, as the biggest state in the Empire, which comprised no less than two thirds of the population was ruled by the emperor himself and by the chancellor of the empire who was appointed by the emperor. Therefore the biggest state could not be a counterweight to the Empire government. Despite this apparent one-sidedness in the German Empire from 1871 to World War I the states enjoyed much domestic autonomy which also was maintained during the so-called Weimar period from 1919 to the year 1933 when the Hitler government abolished federalism. In Switzerland's constitutions the balance of power is not only assured by the strong position of the second chamber which represents the states (*Kantone*), but also by the instrument of referendum which can easily be initiated on the central level and at state (*Kanton*) level as well and is often launched to confirm or to correct laws or to decide on any political matters. This instrument demonstrates a certain mistrust of the principle of delegation or representation.

5 Federalism in the education sector in Switzerland, Germany and Austria

In Switzerland schools for compulsory schooling up to grade nine or ten are within the responsibility of the states (*Kantone*). This means, there are 26 laws on schools – one for each state – some of which differ remarkably. There is no central authority for education in the federal government and when politicians tried to establish a federal responsibility for schools in 1973 this was refused by referendum. The differences between the states are, for example, on the question of whether the state (*Kanton*) itself or the communities are responsible for the maintenance of schools, whether private schools are allowed and whether they are publicly subsidised or not. The secondary school is differently organised: in few cases as a comprehensive system, in most cases as a system of several school types or several tracks, and separation sometimes starts in the fifth grade, sometimes in the sixth or seventh grade.

In Austria and in Germany as well schools are the responsibility of states (*Bundesländer*). In Germany competencies for school matters are clearly reserved to the states (*Bundesländer*). This might be called an element of dual federalism as we are used to it in the U.S. and in fact some elements in the German constitution from 1949 can be observed which were influenced by the U.S. Nevertheless, in most respects federalism in Middle Europe is organised according to the model of so-called co-operative federalism. This is also true in Austria for the school system. Austria does have a federal department for education and a national law on school administration. The central level sets a certain framework which the states (*Bundesländer*) have to fill-out in detail. The organs in the states which run the school affairs are formed as a co-operative board which includes administrators and representatives of teachers and parents. These all are persons who

represent the state, however the board is headed by the highest administrator of the state (*Landeshauptmann*) who is an official of the federal government and is responsible to this federal government. By this, a mixture of federal and state responsibilities is practised which includes the fact that the federal government pays for the salaries of teachers and principals but the representatives of the states select this personnel. The national government pays for teachers and principals according to the number of students and by this indirectly determines the minimum number of pupils who form a class. If a state wants to have smaller classes and more teachers it may pay for additional ones by itself. This is a characteristic example for the model of co-operative federalism which necessitates compromises between the different levels.

In contrast with Switzerland, this type of federalism in Austria accounts for the fact that many small communities have lost their lower secondary and even primary school, whereas in Switzerland most small communities were able to keep their small schools. In Germany the elementary schools in the monarchical Empire after 1871 and also in the Empire of the Weimar period were maintained by the communities which were partly subsidised by the state to this end. Today, the German states (*Bundesländer*) have a strong influence on the net of schools because they fully finance the teachers and may therefore compel the communities to close down schools seen by the state as being too small.

Community self-government is a part of the whole complex of federalism as can be seen in Switzerland, where federalism grew out of community self-government. In the neighbouring states of Austria such as the Czech Republic, Poland and Hungary, which under the communist rule were strongly centralised, the self-government on community level is a kind of revival of federalism. In Hungary and in the Czech Republic compulsory schooling was put under community responsibility, also in financial terms, with the effect that some communities are able to maintain a rather well equipped school system whilst others cannot. The differences in both countries are only partly diminished by state subsidies (Gutsche 1996: 247). The Czech constitution of 1997 contains the allowance to re-establish states in the sense of federalism, but there seems to be no intention to make use of this option. The Republic of Poland after the national re-birth in 1918 showed elements of federalism in the fact that some of the 16 regional provinces, the *Wojewodstvos*, had regional parliaments. In the communist period the country was subdivided into 49 *wojewodstvos* which today are not more than regional authorities.

Federalist states may offer the chance to establish educational institutions at different levels of public representation, i.e. at community level, state level and federal level. In Austria, for example, the higher type of secondary schools (*Allgemeinbildende Höhere Schule*) and full-time vocational schools are maintained by the federal government. Each full-time vocational school is overseen by a board of curators which is composed of one representative of the federal government, one representative of the state, one representative of the community and by representatives of the chambers of commerce and the unions. The president of the board is appointed by the federal minister for school affairs (Engelbrecht 1988: 438 f.). This construction symbolises what is often called co-operative federalism. Primary schools, the lower type of secondary schools (*Hauptschulen*) and part-time vocational schools for apprentices are maintained by communities

who receive state subventions. Curricular frameworks in all cases are provided by the federal minister for school affairs.

In Germany the opportunity of having a mixture of schools in terms of federal schools, state schools and community schools is not used well, as the states jealously guard their authority in this area. There are no federal schools at all, nearly all schools fall into the administration of the states because the states appoint, pay and allocate the teachers. Only the buildings are to be maintained by the communities. An exemption is the city of Munich which maintains and runs vocational schools of its own and also employs the teachers in these schools. Nevertheless, even in Germany the federal level is not kept completely separated from the educational sphere, as the federal government is responsible for regulating apprenticeships within industry and business. This also is the case in Austria and Switzerland, although in Switzerland the states (*Kantone*) also may offer apprenticeships within state-run training centres (*Lehrwerkstätten*).

The apprenticeship-system combines business-based training with part-time vocational schooling which in all three countries falls under the administration of the member states. By this the apprenticeship-system takes part in federalism as business-based training is regulated on the federal level whereas additional schooling is regulated on the level of the states. The allocation of tasks mirrors the fact that economic policy mostly takes place on federal level whereas school affairs are mainly controlled on state level. The burden sharing between federal and state level however creates problems of co-ordination. Switzerland minimised these problems as the states (*Kantone*) not only administer the contribution that schools give to vocational educational but also to a certain degree control the contribution that business gives to vocational education. Co-ordination of both sides seems to work better in Switzerland than in both Germany and Austria. In Switzerland the examinations are administered by the states (*Kantone*), in the other two countries by the chambers of commerce and trade (Rothe in Druck).

Not all of the three states make much use of the opportunity to maintain universities at different levels of political representation. In Austria all universities are federal institutions and in Germany nearly all are state institutions except the few private ones. In Switzerland most universities are state institutions (*Kantone*) but two famous universities are federal ones: These are the Universities of Technology in Zurich and in Lausanne (*Eidgenössische Technische Hochschulen*). This means that the federal government runs two big and expensive universities out of 12. In Germany the federal level is only allowed to maintain universities which educate military personnel. The Armed Forces (*Bundeswehr*) maintain two universities of their own: one in Munich and one in Hamburg. In Switzerland recently the federal government started a new chapter of federal policy in higher education when seven polytechnics (*Fachhochschulen*) were founded which are federal institutions. In Germany all polytechnics (*Fachhochschulen*) are state institutions except private ones, in Austria they are privately provided and must be accredited by a national council for accreditation.

6 Chances and risks of federalism

Federalism offers chances for financial burden sharing among different levels of public organs and also offers chances for pluralism in the educational systems. It shows aspects

of co-operation and competition as well. As the examples of Austria and Germany may demonstrate there is no guarantee that federalism will bring about dynamic positive developments in the school and education systems. There is much jealousy of competencies and more centralism than originally was intended by the authors of the constitutions. It appears that federalism in the education system is strongest in Switzerland. Federalism is a weak structure when it allocates competencies exclusively to one of the levels of political representation and is stronger when it stimulates competition between the different levels. If the pressure for unanimity among the states is strong as it is the case in Germany, competition of models will be weak. Federalism should increase the range of choices for the individual citizens – students or parents – and also for individual institutions and individual communities. Federally administered schools next to state-run schools and even community-run schools provide more choices for parents and teachers. The same can be true for universities. Policy on community level can be more vigorous if communities need not only maintain the physical amenities of schools but can also decide on educational matters. It is to be considered, however, that pluralism in this context requires that the political organs on the different levels of responsibility have got independent sources of income.

A creative adaptation of the principle of federalism would allow the European Union to provide for more educational opportunities than it is allowed to do so far. The few European Schools that were established by the European Union give an example of what the Union could do in favour of pluralism of educational provision and of competition of models (Swan 1997). Institutions financed by the European Union could compete with national and state suppliers for students and parents. A balanced situation among three levels of responsibility – Union, national level and state level – includes concurrent projects run by concurrent providers. The often cited principle of subsidiarity aims at protecting the weaker suppliers from the mighty one which is the state. In the current political situation in Europe this principle cannot mean to strengthen the national governments at the expense of the Union but must mean the opposite as long as the national governments and parliaments hesitate to transfer substantial rights to the European Parliament.

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